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Fish and Game Commission



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August 20, 2014

TO ALL INTERESTED AND AFFECTED PARTIES:

This is to provide you with a copy of the notice of proposed regulatory action relative to sections 1.91, 27.20, 27.25, 27.30, 27.35, 27.40, 27.45, 27.50, 27.51, 27.65, 28.26, 28.27, 28.28, 28.29, 28.48, 28.49, 28.54, 28.55, 28.56, 28.58 and 28.90, Title 14, California Code of Regulations, relating to recreational fishing regulations for federal groundfish and associated species for consistency with federal rules for 2015 and 2016, which will be published in the California Regulatory Notice Register on August 22, 2014.

Please note the dates of the public hearings related to this matter and associated deadlines for receipt of written comments.

Dr. Craig Shuman, Manager, Marine Region, Department of Fish and Wildlife, telephone number (805) 568-1246, has been designated to respond to questions on the substance of the proposed regulations.

Sincerely,

Sherrie Fonbuena
Associate Governmental Program Analyst

Attachment

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FILED

TITLE 14. Fish and Game Commission

Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 215, 220, 702, 5508, 5509, 7071 and 8587.1, of the Fish and Game Code and to implement, interpret or make specific sections 200, 202, 205, 215, 220, 240, 1802, 5508, 5509, 7071 and 8585.5 of the Fish and Game Code; Title 50, Code of Federal Regulations, Part 660, Subpart G; and Section 27.20, Title 14, California Code of Regulations (CCR), proposes to amend sections 1.91, 27.20, 27.25, 27.30, 27.35, 27.40, 27.45, 27.50, 27.51, 27.65, 28.26, 28.27, 28.28, 28.29, 28.48, 28.49, 28.54, 28.55, 28.56, 28.58 and 28.90, Title 14, CCR, relating to recreational fishing regulations for federal groundfish and associated species for consistency with federal rules for 2015 and 2016.

Informative Digest/Policy Statement Overview

Biennially, the Pacific Fishery Management Council (PFMC) reviews the status of west coast groundfish populations. As part of that process, it recommends groundfish fisheries regulations aimed at meeting biological and fishery allocation goals specified in law or established in the Pacific Coast Groundfish Fishery Management Plan (FMP). These recommendations coordinate west coast management of recreational and commercial groundfish fisheries in the federal fishery management zone (3 to 200 miles offshore) off Washington, Oregon and California. These recommendations are subsequently implemented as federal fishing regulations by the National Marine Fisheries Service (NMFS).

For consistency, the Commission routinely adopts regulations to bring State law into conformance with federal law for groundfish and other federally-managed species.

Summary of Proposed Amendments

The Department of Fish and Wildlife is proposing the following regulatory changes to be consistent with PFMC recommendations for federal groundfish regulations in 2015 and 2016. This approach will allow the Commission to adopt State recreational groundfish regulations to timely conform to those taking effect in federal ocean waters in January 2015.

The proposed regulatory changes extend the season length in the Mendocino, San Francisco, and Central Management Areas and increase the allowable depth in the Southern Management Area.

The proposed regulations increase the bag limit for lingcod from two to three fish.

The scientific name for soupfin shark is proposed to be changed to the correct name of *Galeorhinus galeus*.

The proposed regulatory changes would also re-define the species included in "skates" and "other fish" species groups to reflect additions to the FMP. The references to rattail are also proposed to change to the correct name of grenadier.

The references to Drake's Estero Bay are proposed to change to the correct name of Drake's Bay.

Subsection 27.35(b)(3) relating to the Cordell Bank Closure Area is proposed to be repealed.

Other changes are proposed to correct spelling errors and to simplify and clarify regulations.

The benefits of the proposed regulations are consistency with federal law, sustainable management of groundfish resources, protection for groundfish stocks that are overfished and rebuilding, and promotion of businesses that rely on recreational groundfish fishing.

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. The Legislature has delegated authority to the Commission to adopt sport fishing regulations (Fish and Game Code, sections 200, 202 and 205). The proposed regulations are consistent with regulations for sport fishing in marine protected areas (Section 632, Title 14, CCR), with Nearshore Fishery Management Plan regulations (Sections 52.00 through 52.10, Title 14, CCR) and with general sport fishing regulations in Chapters 1 and 4 of Subdivision 1 of Division 1, Title 14, CCR. Commission staff has searched the California Code of Regulations and has found no other State regulations related to the recreational take of groundfish.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Mount Shasta Hatchery Museum, 1 North Old Stage Road, Mount Shasta, California, on Wednesday, October 8, 2014, at 8:00 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Airtel Plaza Hotel, 7277 Valjean Avenue, Van Nuys, California, on Wednesday, December 3, 2014, at 8:00 a.m., or as soon thereafter as the matter may be heard.

It is requested, but not required, that written comments be submitted on or before November 20, 2014, at the address given below, or by fax at (916) 653-5040, or by email to FGC@fgc.ca.gov. **Written comments mailed, faxed or emailed to the Commission office, must be received before 12:00 noon on November 26, 2014.** All comments must be received no later than December 3, 2014, at the hearing in Van Nuys, California. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Sonke Mastrup, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Sonke Mastrup or Sherrie Fonbuena at the preceding address or phone number. **Craig Shuman, Regional Manager of the Marine Region, Department of Fish and Wildlife, phone (805) 568-1246, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption.

Circumstances beyond the control of the Commission (e.g., timing of federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action/Results of the Economic Impact Analysis

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The Commission anticipates increased opportunities for the recreational groundfish fishery in 2015-2016 compared to 2014.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

The Commission does not anticipate any significant impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California.

The Commission anticipates benefits to the health and welfare of California residents. Participation in sport fisheries opportunities fosters conservation through education and appreciation of California's wildlife.

The Commission does not anticipate any benefits to worker safety.

The Commission anticipates benefits to the environment by the sustainable management of California's sport fishing resources.

- (c) Cost Impacts on a Representative Private Person or Business:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.
- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

FISH AND GAME COMMISSION

Dated: August 12, 2014

Sonke Mastrup
Executive Director